

Hawaiian Islands Humpback Whale
National Marine Sanctuary

**Public Comments Overview
for the
Draft Management Plan and
Draft Environmental Impact Statement**

January 2016

The Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS or sanctuary) prepared a Draft Environmental Impact Statement/Draft Management Plan (DEIS/DMP), as required by the National Marine Sanctuary Act (NMSA). This Act requires the sanctuary to periodically review its management plan and goals, with special focus on the effectiveness of site-specific approaches and strategies. The sanctuary conducted its environmental impact review in accordance with the National Environmental Policy Act (NEPA). The National Oceanic and Atmospheric Administration (NOAA) Office of National Marine Sanctuaries (ONMS) is mandated under the National Historic Preservation Act (NHPA) to document compliance with Section 106 of the NHPA, including coordination with Native Hawaiian Organizations (NHOs) and other interested parties, through the careful consideration of potential impacts to historic properties associated with any of its proposed management activities.

The purpose of this document is to provide an overview of the public comments received during (a) the 90-day public comment period for the DEIS/DMP and proposed regulations, and (b) the Section 106 consultation.

Federal Register Notice

On March 20, 2015, the Federal Register Notice (80 FR 15001) for the Environmental Protection Agency announced the Notice of Availability of EIS No. 20150063, Draft EIS for the HIHWNMS Draft Management Plan.

On March 26, 2015, the Federal Register Notice (80 FR 16223) published a proposed rule for the proposed expansion and regulatory revision for the Hawaiian Islands Humpback Whale National Marine Sanctuary (15 CFR Part 922).

On April 29, 2015, the Federal Register Notice (80 FR 23742) was published to notify the public that two additional public hearings were added for the Hawaiian Islands Humpback Whale National Marine Sanctuary.

Submittal of Public Comments on the Draft Management Plan and Draft EIS

The sanctuary accepted public comments for a period of 90 days from March 20, through June 19, 2015. Public comments were received in a variety of ways:

Regulations.Gov

The proposed regulations and draft documents were available to the public through the sanctuary's website (HawaiiHumpbackWhale.noaa.gov) and the website Regulations.gov. Regulations.gov was also used as the public repository/depository of all public comments received during the 90-day public comment period. The public was encouraged to submit comments online. In addition, all verbal and written testimony received at public hearings, and all written comments, form letters, and petitions signed during the comment period and mailed to sanctuary offices, as well as videos of verbal testimonies at public hearings were posted on Regulations.gov.

The total number of submissions to Regulations.gov during the 90-day public comment period was 15,337. Submittals were made by individuals, companies, organizations, and agencies. Not included were petitions and form letters signed prior to the public comment period before the review documents were available to the public.

Regulations.gov allowed full transparency of the comments posted. This website provided the opportunity for the public to perform online sorting of the comments by a number of options. ONMS accepted anonymous comments, as stated in the Federal Register Notice. Place of origin of the comment was optional and most declined to identify their place of origin. Comments related to cultural and historic properties and potential impacts were also included in the Section 106 review process.

Public Hearings

Eleven (11) public hearings, attended by at least 739 people, were held on 6 of the main Hawaiian Islands. Two hundred twenty (220) verbal testimonies were videotaped and transcribed or documented. Ninety-nine (99) written testimonies were collected during the public hearings.

Public Hearing Locations	Date 2015	Signed in as Attended	Verbal Testimonies	Written Testimonies
O‘ahu - North Shore	April 27	26	5	4
O‘ahu - South Shore	April 28	97	20	0
Maui - Kīhei	April 29	26	6	2
Maui - Lahaina	April 30	21	8	1
Moloka‘i	May 1	9	3	0
Lāna‘i	May 2	5	2	0
Kaua‘i - Kilauea	May 4	167	21	31
Kaua‘i - Waimea	May 5	236	81	37
Kaua‘i - Līhu‘e	May 6	109	55	24
Hawai‘i Island - Kona	May 7	25	11	0
Hawai‘i Island - Hilo	May 11	18	8	0
Total		739	220	99

Public Meeting * Location	Date 2015	Signed in as Attended	Verbal Testimonies	Written Testimonies
Ni‘ihau	May 5	33	0	0

* This meeting was for Ni‘ihau residents and landowners due to limited access to the island

Total attendance likely exceeded sign-ins, which was encouraged but voluntary. Some presenters of verbal testimony appeared more than once.

The public was encouraged to submit comments and concerns regarding historic properties throughout the 2010 scoping period, and throughout the 2015 NEPA public hearings process. An overview of the Section 106 process was included in the public hearing presentations, and Section 106 review guidance was posted on the sanctuary's web site.

Written Comments

Written comments were accepted by mail addressed to Sanctuary Superintendent, 1845 Wasp Blvd., Bldg. 176, Honolulu, Hawai'i 96818, or submitted at all sanctuary offices or deposited into designated boxes for written testimony which were available at all public hearings.

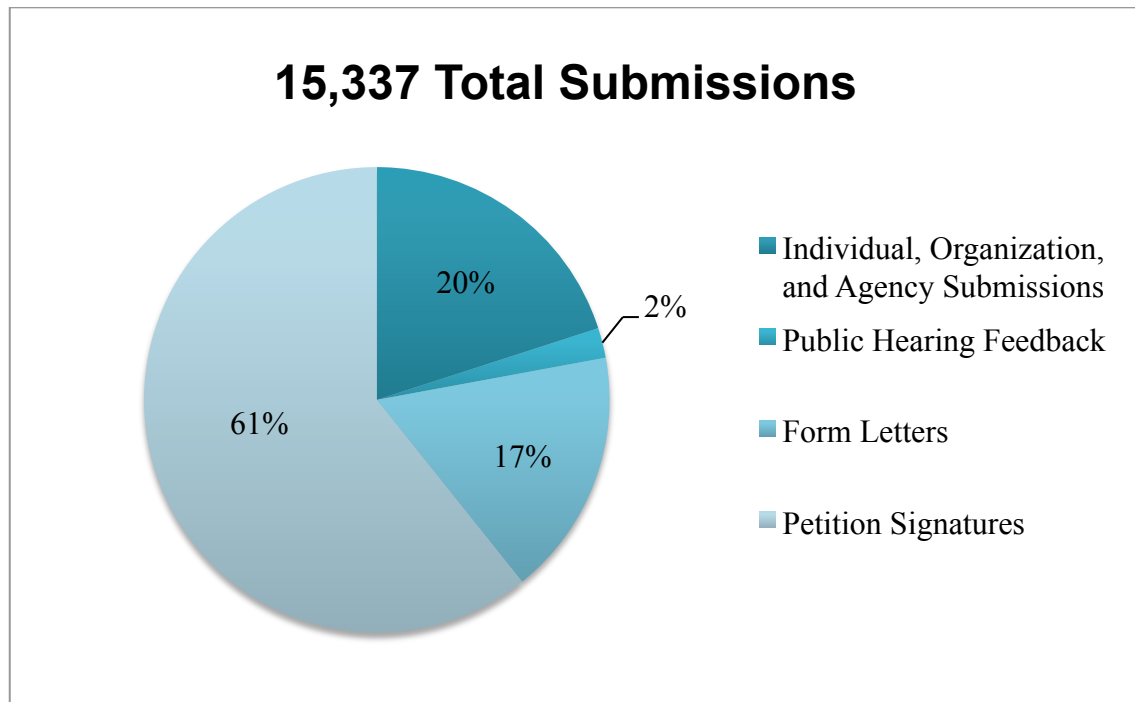
Form letters were received from two main groups. In total, there were 2,634 form letters. The form letters contained multiple comments. Some people wrote additional comments on their form. This number may include duplicates, but is separate from the form letters submitted to Regulations.gov as individual submissions. Fifty-seven (57) form letters submitted by Kaua'i Ocean Users and signed before 2015 were not counted.

Form Letters	Copies
Kaua'i Ocean Users	2,072
Friends of Maunalua Bay (Version A)	290
Friends of Maunalua Bay (Version B)	198
Friends of Maunalua Bay (Version C)	47
Friends of Maunalua Bay (Version D)	27
Total	2,634

Four (4) petitions from three groups, representing 9,314 signatures, were submitted. Some wrote additional comments. Not included in the submission counts were: a petition with 7,252 signatures obtained in prior years before the DMP/DEIS was available; and another petition with 641 signatures, also conducted before the 2015 public review period.

Petitions	Signatures
Students of Waimea High School, Kaua'i	52
Friends of Maunalua Bay (Version A)	1,214
Friends of Maunalua Bay (Version B - Change.org) <ul style="list-style-type: none"> The signatures from this petition were received as a list of names and addresses without any verbiage from the petition itself. 	712
Marine Conservation Institute	7,336
Total	9,314

Not included in the submission counts were: a petition with 7,252 signatures obtained in prior years before the DMP/DEIS was available; and another petition with 641 signatures, also conducted before the 2015 public review period.



61% Petition signatures (9,314)
20% Individual, Organization, and Agency Submissions (3,070)
17% Form Letters (2,634)
2% Public Hearing Testimonies (319)

Eighty organizations or government agencies submitted comments. These submitters self-identified. Some on this list may not be formal organizations.

- AAIWS
- Aha Moku Advisory Committee (AMAC)
- Aha Moku and Ni‘ihau Ranch
- Aha Moku O Maui
- Aha Moku O Maui, Maui Cooperative Fishing Association
- Aha Moku, West Hawai‘i
- Ahupua‘a of Halele‘a
- BlueShark Conservation
- Center for Biological Diversity
- Conservation Council for Hawai‘i
- Department of Environmental Services (ENV), City and County of Honolulu
- Department of Hawaiian Home Lands (DHHL)
- Department of Health - Environmental Health Administration (DOH-EHA)
- Department of Land and Natural Resources (DLNR)
- Department of Transportation (DOT)
- Division of Aquatic Resources (DAR)
- Division of Boating and Ocean Recreation (DOBOR)
- Division of Conservation and Resources Enforcement (DOCARE)
- Drains to Ocean
- Environmental Protection Agency (EPA), Region IX
- Freedom Loving People of America, The
- Friends of Maunalua Bay
- Friends of the Earth
- Hanalei Watershed Hui
- Hawai‘i Department of Health (HDOH)
- Hawai‘i Fisherman's Alliance for Conservation and Tradition, Inc.
- Hawai‘i Kai Marina Business Office
- Hawai‘i Kai Marina Community Association
- Hawai‘i Kai Neighborhood Board
- Hawai‘i Kai Shopping Center
- Hawai‘i National Marine Sanctuary Foundation
- Hawai‘i Sportsmen's Alliance
- Hawai‘i State Energy Office (HSEO)
- Hawai‘i State Senate
- Hui Ho‘omalua I Ka ‘Āina
- Humane Society of the United States, The
- Hunting Farming Fishing Association
- International Marine Mammal Project, Earth Island Institute
- Kalihiwai Hui

- Kaua‘i Ocean Users
- Koholā Leo
- Koko Marina Center
- Mālama Maunalua
- Mālama Pūpūkea-Waimea
- Marine and Coastal Zone Advocacy Council
- Marine Conservation Institute
- Marine Mammal Commission
- Maui Co op fishing
- National Park Service, Haleakalā National Park
- Natural Energy Laboratory of Hawai‘i Authority (NELHA)
- Nature Conservancy, Hawai‘i Program, The
- Nature Conservancy, The
- Ni‘ihau Ranch and the Robinson family
- Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve Advisory Council
- Ocean Foundation, The
- Office of Conservation and Coastal Lands (OCCL)
- Office of Environmental Quality Control (OEQC)
- Office of Federal Compliance Contract Program (OFCCP)
- Office of Hawaiian Affairs
- Office of Planning (OP)
- Office of the Mayor, Kaua‘i County
- Puako Community Association
- Sea Shepherd Conservation Society
- Seabreeze Companies, The
- Sierra Club of Hawai‘i
- Snorkel Bob Foundation, The
- State Historic Preservation Division (SHPD)
- Students of Waimea High
- Surfrider Foundation, Kaua‘i Chapter, The
- Surfrider Foundation, The
- Texas Conservation Alliance
- U.S. Army Corps of Engineers (USACE), Honolulu District
- U.S. Fish and Wildlife Service - Kaua‘i National Wildlife Refuge Complex
- U.S. Pacific Fleet, Department of the Navy
- U.S. Coast Guard
- Universal Adventure
- West Maui Preservation Association (WMPA)
- Western Pacific Regional Fishery Management Council
- Young Brothers, Limited

Sanctuary Advisory Council

The Sanctuary Advisory Council (SAC) formed a Management Plan Review (MPR) working group to evaluate the Draft Management Plan and Draft Environmental Impact Statement. The working group met between April and July 2015 to develop a summary evaluation and specific recommendations for consideration by the SAC. At the July 20, 2015, SAC meeting in Honolulu, the council voted to support the recommendations formulated by the MPR working group and forward them to sanctuary management.

The SAC voted to support the transition to ecosystem-based management, and was supportive of the sanctuary's proposed work on key issues and geographies, while recognizing the importance of co-management between NOAA and the State of Hawai'i. They voted to support expanding the sanctuary boundaries to include the Hanalei River and Hā'ena boundary amendments. The SAC recommended a clearer articulation of the value and conservation benefits of the proposed regulations, and also an articulation of the costs and impacts that the regulations will have for different ocean user groups.

Programmatic and regulatory recommendations were developed for each of the previously developed SAC working group recommendations. In particular, the SAC recommended that the proposed regulations be consistent sanctuary-wide by extending them to all sanctuary waters (not just within Special Sanctuary Management Areas).

Regular updates on the Management Plan Review and the Section 106 review were also provided at regularly scheduled meetings of the Sanctuary Advisory Council.

Comments

Some of the comments submitted were specific in nature and provided substantial information applicable to the review of the DMP and DEIS.

Comments frequently received included:

- Support for activities that continue to protect and help the recovery of humpback whales
- Support for the management plan activities that were non-regulatory, and for which the sanctuary program is known for, such as education and outreach
- Support and opposition to ecosystem-based management
- Opposition to a boundary expansion to include the waters around Ni'ihau
- Concerns about additional and redundant federal regulations
- Concerns about the designation of Maunalua Bay as a Special Sanctuary Management Area
- Support for increased funding for the Department of Land and Natural Resources
- Questions about co-management with the State of Hawai'i
- Questions about the need for the sanctuary in light of increased humpback whale populations

Many of the comments submitted were general in nature and not directly related to the specifics of the NOAA proposal. These submissions expressed concerns of federal government take-over, taking away fishing rights, and closing off access. There were also concerns expressed regarding state rights. The comments received at the public hearings, especially on the Kaua‘i and Hawai‘i Kai meetings, were critical of the expansion of the sanctuary. On Kaua‘i, the opposition was primarily focused on the proposal to include Ni‘ihau in the sanctuary boundaries and anticipated negative impacts that boundary change might have on fishing by Kaua‘i residents. In Hawai‘i Kai, opposition was primarily focused on proposed regulations and anticipated negative impacts on businesses, home association activities, real estate prices, and marine dredging anticipated by the designation of Maunalua Bay as a Special Sanctuary Management Area.

Comments received during the public hearings were generally not supportive. Later during the public comment period, comments received were supportive of various aspects of the proposal

Section 106 Consultation Process

The Section 106 consultation period of April 20, 2015, through September 24, 2015 (5 months) overlapped and extended beyond the NEPA public comment period. The identification of consulted parties was initiated on September 18, 2012 and continued in phases through 2015. Notifications were sent to parties identified by the State Historic Preservation Division and the entire list of Native Hawaiian Organizations maintained by the U.S. Department of the Interior Office of Native Hawaiian Relations (www.doi.gov/ohr) “Native Hawaiian Organization (NHO) Notification List” as of September 2012, as well as selected representatives of other stakeholder groups (including recreational scuba associations, archaeological societies, research institutions, museums, Navy Region Hawai‘i). Other parties self-identified during the NEPA public hearing process and informal communication channels.

Consultations with selected parties took the form of letters, emails, telephone calls, webinars, and face-to-face meetings, with the preference among most participants being for face-to-face meetings. Despite multiple invitations to selected parties on Moloka‘i and Lāna‘i, no consultations were requested nor scheduled with parties on those islands. Eleven (11) consultation events were held in multiple locations. Some participants attended more than one event.

Sec. 106 Consultations	Date 2015	Attended
Ni‘ihau - Phone	April 16	1
O‘ahu (Honolulu) - Webinar	April 20	4
O‘ahu (Honolulu) - Webinar	April 21	2
Kaua‘i (Līhu‘e) - Meeting	June 22	11
Maui (Wailuku) - Meeting	June 23	33
Hawai‘i (Kona) - Meeting	June 29	3
Kaua‘i (Kilauea) - Meeting	July 10	2
Kaua‘i (Līhu‘e) - Meeting	July 10	1
Kaua‘i (Kapa‘a) - Meeting	July 26	10
Hawai‘i (Waimea) - Meeting	Sept 19	9
Maui (Wailuku) - Meeting	Sept 24	8
Total		84

The Section 106 review process was affected by several major events in communities statewide. These events also affected the public comments received during the NEPA process, particularly at the HIIWNMS public hearings.

The Sec. 106 comments received focused on several main areas:

- The list of historic properties
- Potential impacts on and mitigations to historic properties
- The Section 106 review process
- Potential effects on properties and boundaries
- DMP comments on fishing, cultural resources, traditional uses
- Draft regulations and impacts on fishing